

**Part 185
Testimony By Employees and Production
of Records in Legal Proceedings, and
Service of Legal Process and Pleadings**

This edition replaces the existing loose-leaf
Part 185 and Change 1.

This FAA publication of the basic Part 185, effective October 17, 1969,
incorporates Amendments 185-1 through 185-3 with preambles.

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of the Code of Federal Regulations.

This FAA publication of the basic Part 185, effective October 17, 1969, incorporates Amendment 185-1 through 185-3.

Bold brackets **[]** throughout the regulation indicate the most recently changed or added material for that particular subpart. The amendment number and effective date of new material appear in bold brackets at the end of each affected section.

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The purpose of this amendment to the Federal Aviation Regulations is to revise part 185, that has prescribed the rules of the FAA with respect to testimony of its employees and the release or disclosure of FAA materials and records, in legal proceedings, and the service of legal process and pleadings. On July 11, 1969, the Secretary of Transportation issued a revised part 9 of the regulations of his Office, effective July 16, 1969 (34 FR 11972), that prescribes for the entire Department the policies and procedures with respect to testimony of its employees as witnesses in legal proceedings, the acceptance of service and pleadings in legal proceedings involving the Department, and the production of records of the Department pursuant to subpoena.

Part 9 authorizes the General Counsel or appropriate counsel of the operating administration concerned to take the same actions and make the same determinations, in legal proceedings concerning that administration, that have been prescribed in part 185. "Appropriate counsel of the operating administration concerned" is defined in part 9 to include the General Counsel or Chief Counsel of that administration and any person to whom he has delegated his authority under part 9.

This amendment limits the scope of part 185 to naming the General Counsel of the FAA, and the other officials designated by him, as the persons (1) upon whom legal process or pleadings may be served, and who have authority to acknowledge the service and take further action thereon, and (2) who otherwise take actions and make determinations, in legal proceedings concerning the FAA. The FAA officials in each case are those previously named in part 185.

Since this amendment merely deletes obsolete regulatory material and relates to agency organization, management, and personnel, notice of rulemaking and public procedure thereon are not required and the action may be made effective less than 30 days after its publication.

In consideration of the foregoing, part 185 of the Federal Aviation Regulations is amended effective October 17, 1969.

This amendment is issued under the authority of sections 303(d) and 313(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1344, 1354(a)), section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)), and part 9 of the regulations of the Office of the Secretary of Transportation (49 CFR part 9 as amended (34 FR 11972)).

Amendment 185-1

Organizational Changes and Delegations of Authority

Adopted: September 15, 1989

Effective: October 25, 1989

(Published in 54 FR 39288, September 25, 1989)

SUMMARY: This amendment adopts changes to office titles and certain terminology in the regulations that were affected by a recent agencywide reorganization. These changes are being made to reflect delegations of authority that were changed, as well as offices that were renamed or abolished and replaced with new office designations. These changes are necessary to make the regulations consistent with the current agency structure.

FOR FURTHER INFORMATION CONTACT: Jean Casciano, Office of Rulemaking (ARM-1), Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591; telephone (202) 267-9683.

SUPPLEMENTARY INFORMATION:

delegated rulemaking authority by the Administrator. These delegations need to be updated. In addition, throughout the Federal Aviation Regulations references are made to offices that have been renamed or are no longer in existence as a result of reorganization.

Title 14 of the Code of Federal Regulations must therefore be amended to reflect the reorganizations and changes that have taken place.

Paperwork Reduction Act

The paperwork requirements in sections being amended by this document have already been approved. There will be no increase or decrease in paperwork requirements as a result of these amendments, since the changes are completely editorial in nature.

Good Cause Justification for Immediate Adoption

This amendment is needed to avoid possible confusion about the FAA reorganization and to hasten the effective implementation of the reorganization. In view of the need to expedite these changes, and because the amendment is editorial in nature and would impose no additional burden on the public, I find that notice and opportunity for public comment before adopting this amendment is unnecessary.

Federalism Implications

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the National government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

The FAA has determined that this document involves an amendment that imposes no additional burden on any person. Accordingly, it has been determined that: The action does not involve a major rule under Executive Order 12291; it is not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and because it is of editorial nature, no impact is expected to result and a full regulatory evaluation is not required. In addition, the FAA certifies that this amendment will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The Rule

In consideration of the foregoing, the Federal Aviation Administration amends the Federal Aviation Regulations (14 CFR Chapter I) effective October 25, 1989.

The authority citation for part 185 continues to read as follows:

Authority: Secs. 303, 313, 72 Stat. 747, 752; 49 U.S.C. 1344, 1354, 1655; part 9 of the regulations of the Office of the Secretary of Transportation (49 CFR part 9) as amended (34 FR 11972).

Amendment 185-2

Revision of Authority Citations

Adopted: December 20, 1995

Effective: December 28, 1995

(Published in 60 FR 67254, December 28, 1995)

SUMMARY: This rule adopts new authority citations for Chapter I of Title 14 of the Code of Federal Regulations (CFR). In 1994, the Federal Aviation Act of 1958 and several other statutes conferring

SUPPLEMENTARY INFORMATION: In July 1994, the Federal Aviation Act of 1958 and numerous other pieces of legislation affecting transportation in general were recodified. The statutory material became "positive law" and was recodified at 49 U.S.C. 1101 *et seq.*

The Federal Aviation Administration is amending the authority citations for its regulations in Chapter I of 14 CFR to reflect the recodification of its statutory authority. No substantive change was intended to any statutory authority by the recodification, and no substantive change is introduced to any regulation by this change.

Although this action is in the form of a final rule and was not preceded by notice and an opportunity for public comment, comments are invited on this action. Interested persons are invited to comment by submitting such written data, views, or arguments as they may desire by March 1, 1996. Comments should identify the rules docket number (Docket No. 28417) and be submitted to the address specified under the caption "FOR FURTHER INFORMATION CONTACT."

Because of the editorial nature of this change, it has been determined that prior notice is unnecessary under the Administrative Procedure Act. It has also been determined that this final rule is not a "significant regulatory action" under Executive Order 12866, nor is it a significant action under DOT regulatory policies and procedures (44 FR 11034, February 26, 1979). Further, the editorial nature of this change has no known or anticipated economic impact; accordingly, no regulatory analysis has been prepared.

Adoption of the Amendment

In consideration of the forgoing, the Federal Aviation Administration amends 14 CFR Chapter I effective December 28, 1995.

The authority citation for part 185 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 40113-40114, 46104; 49 CFR part 9.

Amendment 185-3

Organizational Changes and Delegations of Authority

Adopted: August 25, 1997

Effective: September 4, 1997

(Published in 62 FR 46864, September 4, 1997)

SUMMARY: This amendment adopts changes to office titles as a result of changes in the names of various offices and the establishment of a new position within the Office of the Chief Counsel. These changes are necessary to make the regulations and delegations of authority consistent with the current structure of the Office of the Chief Counsel.

FOR FURTHER INFORMATION CONTACT: Christopher Poreda, Senior Attorney, Office of the Assistant Chief Counsel, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803-5299; telephone (617) 238-7942, fax (617) 238-7055.

SUPPLEMENTARY INFORMATION:

Discussion

On July 1, 1988, the Federal Aviation Administration (FAA) underwent far-reaching organizational changes that affected both headquarters and regional offices. The most significant of those changes placed certain regional offices in the direct reporting line to their headquarters counterparts, when before those

has determined that the name of the legal office in each region should be changed back to Regional Counsel for that region, the legal office at the Mike Monroney Aeronautical Center back to Aeronautical Center Counsel, and at the William Hughes Technical Center, Technical Center Counsel. This name change will not affect the reporting lines or delegations of authority made within the Office of the Chief Counsel. Regional Counsel and Center Counsel offices will still report directly to the Office of the Chief Counsel.

In November 1992, the Office of the Chief Counsel underwent organizational changes. One of the organizational changes made was to separate the duties of the Assistant Chief Counsel for Regulations and Enforcement, thus creating an office for the Assistant Chief Counsel for Regulations and an office for the Assistant Chief Counsel for Enforcement. These name changes are reflected in parts 11 and 13 of this document.

In addition, the FAA has recently established the position of Assistant Chief Counsel, Europe, Africa, and Middle East Area Office. The objective of establishing this new position is to establish within this region a senior level of legal support for U.S. civil aviation safety and security initiatives.

Within parts 11, 13, 15, and 185 of the Federal Aviation Regulations (FARs), various regulations refer to legal offices at each region and at the centers, as well as FAA Headquarters. Title 14 of the Code of Federal Regulations must therefore be amended to reflect this name change of certain offices within the Office of Chief Counsel.

Good Cause Justification for Immediate Adoption of These Amendments

These amendments are needed to eliminate and avoid confusion over the internal structure of the FAA's Office of Chief Counsel. Since these amendments are editorial in nature, impose no additional burden on the public, and constitute only agency rules of organization, I find that notice and opportunity for prior public comment before adopting these amendments is unnecessary, and that good cause exists for making them effective immediately. In addition, the FAA has considered the Regulatory Policies and Procedures of the Office of the Secretary of Transportation and finds that notice and the opportunity for comment could not reasonably be anticipated to result in the receipt of useful information.

Paperwork Reduction Act

These amendments are completely editorial in nature. There will be no increase or decrease in the paperwork requirements of the sections amended, which requirements have already been approved.

Federalism Implications

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

The FAA has determined that these amendments do not impose any additional burden on the public, and, accordingly, that this action is not a "significant regulatory action" under Executive Order 12866; it is not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and, because of its editorial nature, no economic impact is expected to result, and, therefore, no regulatory evaluation is required. In addition, the FAA certifies that these amendments will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Part 185—Testimony by Employees and Production of Records in Legal Proceedings, and Service of Legal Process and Pleadings

Source: Docket No. 9900 (34 FR 16622, 10/17/69), unless otherwise noted.

§ 185.1 Purpose.

(a) The purpose of this part is to name the FAA officials who, pursuant to part 9 of the regulations of the Office of the Secretary of Transportation (49 CFR part 9) as amended (34 FR 11972, July 16, 1969), are those:

(1) Upon whom legal process or pleadings may be served in any legal proceeding concerning the FAA, and who have authority to acknowledge the service and take further action thereon; and

(2) Who otherwise perform the functions prescribed by part 9 in legal proceedings concerning the FAA with respect to testimony by FAA employees and production of FAA records in legal proceedings.

(b) For purposes of this part, "legal proceedings" includes any proceeding before a court of law, administrative board or commission, hearing officer, or other body conducting a legal or administrative proceeding.

§ 185.3 Acceptance of service on behalf of the Secretary of Transportation or the Administrator.

Legal process or pleadings in any legal proceeding concerning the FAA may be served, at the

option of the server, on the Chief Counsel, Deputy Chief Counsel, Assistant Chief Counsel, Litigation Division, of the FAA, or any other FAA official designated by the Chief Counsel, with the same effect as if served upon the Secretary of Transportation or the Administrator. The official accepting the service under this section acknowledges the service and takes further action as appropriate.

§ 185.5 Testimony by employees and production of records in legal proceedings.

The Chief Counsel, and each [Assistant Chief Counsel, each Regional Counsel, Aeronautical Center Counsel, and the Technical Center Counsel, with respect to matters arising within their respective jurisdictions], and any other FAA official designated by the Chief Counsel, perform the functions in legal proceedings (other than one described in § 185.3 of this part) as prescribed by part 9 of the regulations of the Office of the Secretary of Transportation, with respect to testimony by FAA employees and production of FAA records in legal proceedings.

(Amdt. 185-1, Eff. 10/25/89); [(Amdt. 185-3, Eff. 9/4/97)]

